



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

INTEL/BLAKELY
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

COPY MAILED

JAN 03 2008

OFFICE OF PETITIONS

In re Application of :
Yousseff :
Application No. 09/276,021 : UNDER 37 CFR 1.47(b)
Filed: March 25, 1999 :
Atty. Dkt. No.: 42P8950 :
For: RAPID TRAINING ECHO :
CANCELLOR FOR :
TELECOMMUNICATIONS SYSTEM :

This decision is in response to the renewed petition under 37 CFR 1.47(b), filed December 10, 2007.

The petition under 37 CFR 1.47(b) is DISMISSED.

Petitioner is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)," and should only address the deficiencies noted herein. The reply under 37 CFR 1.47(b) may include an oath or declaration executed by the non-signing inventors. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed March 25, 1999 without an executed oath or declaration. Accordingly, a Notice to File Missing Parts of Nonprovisional Application ("Notice") was mailed April 29, 1999 requiring an executed oath or declaration and a surcharge.

A grantable petition under 37 CFR 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; (4) a statement of the last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) a showing that such action is required to preserve the rights of the parties or to prevent irreparable damages.

The petition fails to satisfy requirement (2) set forth above. A declaration in compliance with 37 CFR 1.63 has not been presented.

The declaration submitted is not acceptable because it has not been properly executed on behalf of the non-signing inventor. Petitioner argues that the declaration authorizes practitioners at Customer Number 45209 to act on behalf of assignee for the instant application. Petitioners further reference the statement under 3.73(b) signed by Mr. Caldwell wherein Mr. Caldwell states he is authorized to act on behalf of assignee. The power of attorney to Customer Number 45209 is not in question. Mr. Caldwell's authorization to prosecute the application is also not in question.

The problem lies with the execution of the declaration. The declaration is executed by David Simon.

In accordance with MPEP 409.03(b)(A) "[w]here an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, either proof of the attorney's or agent's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney or agent may simply state that he or she is authorized to sign on behalf of the corporation."

It is unknown if David Simon, the individual who executed the declaration, is a registered attorney or agent acting on behalf of the assignee. To the extent that Mr. Simon is acting as a registered attorney or agent on behalf of the assignee, he must state (on the declaration) that he is authorized to sign the declaration on behalf of the assignee.

It is unknown if David Simon is simply signing the declaration on behalf of assignee and not in the capacity of a registered attorney or agent.

To the extent that Mr. Simon is signing the declaration on behalf of assignee, and not as a registered attorney or agent, Mr. Simon must comply with the requirements of MPEP 324, which includes the submission of a statement under 3.73(b) executed by Mr. Simon.

The statement under 3.73(b) submitted herewith is signed by Mr. Caldwell, not Mr. Simon. Mr. Caldwell, however, did not execute the declaration.

